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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,937	01/21/2004	Alexander G. MacInnis	51706/JEJ/B600	5694

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EXAMINER

BRIER, JEFFERY A

ART UNIT PAPER NUMBER

2628

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/762,937

Applicant(s)

MACINNIS ET AL.

Examiner

Jeffery A. Brier

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Amendment***

1. The amendment filed on 2/02/2006 has been entered.

***Response to Arguments***

2. At page 7 applicant's responds to the 1/21/2004 information disclosure statement failure to provide copies of certain references by providing the 2/2/2006 information disclosure statement with the references. This information disclosure statement has been considered and an initialed copy of the two page PTO-1449 is enclosed.
3. At page 7 applicant makes reference to the telephone interview. During the January 23, 2006 claims 21, 28 and 35 were discussed and it appeared at that time that the 112 issues had been overcome by these new claims, however, after further review it is apparent that a few 112 issues remain.
4. At pages 8-9 applicants makes reference to the rejection of claims 1, 8, and 15. It is noted that applicant has cancelled the term "at a display time", however, it should be noted that "at a display time" is different than "at every display field time or a frame time".
5. At pages 9-12 applicant responds to the logical window and graphics image being the same color. At page 10 applicant makes reference to page 26 lines 5-15 of applicant's specification, however, the quoted section does not teach using the data structure color field to define the color used in generating the graphics image.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 21-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 21:

At lines 8 and 9 this claim claims "pixels of a single color". This phrase is not further defined in the specification and thus the specification does not convey how pixels can be other than a "single color" since the pixel is the basic picture element of the display device which would have a single color.

It is not clear in the claim how applicant is using the color in the color field to generate the pixels in the graphics image having that color. Applicant's specification at page 34 lines 14-20 describes blending the graphics images with the windows:

The system preferably processes graphics images for display by organizing the graphics images into windows in which the graphics images appear on the screen, obtaining data that describes the windows, sorting the data according to the depth of the window on the display, transferring graphics images from memory, and blending the graphics images using alpha values associated with the graphics images.

Thus, the color in the color field is not seen to be used in generating the graphics image but rather is used in the blending process. Therefore the specification does not convey

Art Unit: 2628

the claimed generation of the graphics images at lines 15-18. Blending a graphics image with a window is different than generating the graphics image.

Claims 23 and 24:

This claim claims the graphics image is represented in the memory by alpha values only. The specification at page 26 lines 17-25 describes "alpha-only" with regard to window and not to the claims graphics image. Thus, the specification does not convey a graphics image defined by alpha values only.

Claim 28:

This claim at lines 4 and 12 have the same written description issues found in claim 21.

Claims 30 and 31:

These claims have the same written description issues found in claims 23 and 24.

Claim 35

This claim at lines 2 and 9 have the same written description issues found in claim 21.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 21-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21:

At lines 8 and 9 this claim claims "pixels of a single color". This phrase is not further defined in the specification and it is not clear how pixels can be other than a "single color" since the pixel is the basic picture element of the display device which would have a single color.

It is not clear in the claim how applicant is using the color in the color field to generate the pixels in the graphics image having that color. Applicant's specification at page 34 lines 14-20 describes blending the graphics images with the windows:

The system preferably processes graphics images for display by organizing the graphics images into windows in which the graphics images appear on the screen, obtaining data that describes the windows, sorting the data according to the depth of the window on the display, transferring graphics images from memory, and blending the graphics images using alpha values associated with the graphics images.

Thus, the color in the color field is not seen to be used in generating the graphics image but rather is used in the blending process. Therefore lines 15-18 do not clearly claim how the graphics images are generated. Blending a graphics image with a window is different than generating the graphics image.

Claims 23 and 24:

This claim claims the graphics image is represented in the memory by alpha values only. The specification at page 26 lines 17-25 describes "alpha-only" with regard to window and not to the claims graphics image. Thus, this claim does not distinctly claim the described invention.

Claim 28:

This claim at lines 4 and 12 have the same indefinite issues found in claim 21.

Art Unit: 2628

Claims 30 and 31:

These claims have the same indefinite issues found in claims 23 and 24.

Claim 35

This claim at lines 2 and 9 have the same indefinite issues found in claim 21.

Claims 22, 25-27, 29, 32-34, and 36-39:

These dependent claims do not correct the indefinite issues found in their respective parent claim.

10. A prior art rejection cannot be made because the metes and bounds of the claims are not definite and because the specification does not support the claims. Thus, an indication of allowability would be premature. In re Steele, 305 F.2d 859, 134 USPQ 292 (CCPA 1962) (it is improper to rely on speculative assumptions regarding the meaning of a claim and then base a rejection under 35 U.S.C. 103 on these assumptions).


11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:00 to 3:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeffery A Brier  
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